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FILED

JAN 23 2007

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Attorneys for Plaintiff  
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, )  
Plaintiff, )  
v. )  
CHARLES W. McCALL, and JAY M. )  
LAPINE, )  
Defendants. )  
No. CR-00-0505-MJJ  
THE UNITED STATES' REQUEST AND  
[PROPOSED] ORDER CONTINUING  
SENTENCING DATE FOR ALBERT  
BERGONZI

The United States respectfully requests that the sentencing date for Albert Bergonzi, now scheduled for February 8, 2007, at 2:00 p.m., be vacated and continued to a date to be determined by the Court. The United States requests this continuance in light of Bergonzi's plea agreement, which requires the United States to file a motion pursuant to U.S.S.G. section 5K1.1 and/or Federal Rule of Criminal Procedure 35 recommending a downward departure or sentence reduction if the United States, in its sole discretion, determines that Bergonzi has cooperated fully and truthfully, provided substantial assistance to law enforcement authorities within the

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1 meaning of U.S.S.G. section 5K1.1, and otherwise complied fully with the terms of his plea  
2 agreement.

3 Bergonzi's cooperation in the investigation and prosecution of related criminal matters is  
4 continuing, and the United States does not expect it to be completed until sometime after  
5 February 8, 2007. In addition, the United States Probation Office has not yet completed its pre-  
6 sentence investigation or prepared a Pre-Sentence Report. The United States therefore requests  
7 that Bergonzi's sentencing be delayed until after the re-trial, if any, of Charles McCall and Jay  
8 Lapine in order better to assess Bergonzi's provision of substantial assistance to law enforcement  
9 authorities within the meaning of U.S.S.G. section 5K1.1. A status conference is currently  
10 scheduled for March 22, 2007 in *United States v. McCall and Lapine*, at which time the  
11 government expects the parties to discuss with the Court a date for re-trial in that matter.

12 For these reasons, the United States respectfully requests that the sentencing date for  
13 Bergonzi, now scheduled for February 8, 2007, at 2:00 p.m., be vacated to a date determined by  
14 the Court. Counsel for Bergonzi has indicated that she does not object to the government's  
15 proposal.

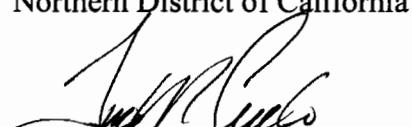
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17 DATED: January 22, 2007

Respectfully submitted,

18 KEVIN V. RYAN  
19 United States Attorney  
20 Northern District of California

21 By

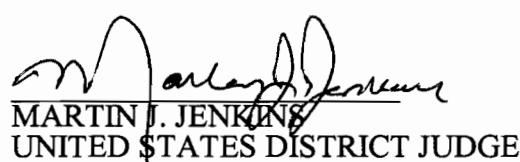
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23 TIMOTHY P. CRUDO  
24 Assistant United States Attorney

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26 Good cause appearing, **IT IS SO ORDERED.** The February 8, 2007 sentencing date for  
27 Albert Bergonzi is hereby VACATED.

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DATED: 1/23, 2007

  
29 MARTIN J. JENKINS  
30 UNITED STATES DISTRICT JUDGE